



CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

ZONING COMMISSION
(203) 797-4525
(203) 797-4586 (FAX)

MINUTES
SEPTEMBER 13, 2011

The meeting was called to order by Chairman Robert Melillo at 7:33 PM.

Present were Anthony DiCaprio, Theodore Haddad Jr., Richard P. Jowdy, Robert Melillo, Gary Renz, Terry Tierney, and Alternates Elmer Palma and Patrick Venuti.

Absent were Ted Farah, Walter Hoo, Alan Kovacs, and Alternate Thomas Spegnolo.

Chairman Melillo asked Mr. Palma to take Mr. Hoo's place and Mr. Venuti to take Mr. Farah's for the items on tonight's agenda.

Mr. Venuti led the Commission in the Pledge of Allegiance.

PUBLIC HEARINGS:

7:30 PM — Petition of E & S LLC/HSBE, LLC d/b/a One Stop, 276 White St. (#K13031) for Special Permit for Sale of Grocery Beer.

Mr. Renz read the legal notice. Attorney Neil Marcus spoke in favor of this. He said this is the site of the former Duchess Restaurant on the corner of White and Byron Sts. He said they were granted a special exception for this change of use. One of the conditions of that approval was that a traffic light will be installed at the intersection. He said that there is only one other gas station/convenience store in Danbury that sells beer. That site is on Lake Ave. and is just a walk-in convenience store. The applicant's store will be on a larger scale. They will sell fresh produce and other grocery items and also will accept food stamps. It will be more like a small grocery store than what is considered a traditional "convenience store". He said they also will be keeping the drive-up window from the Duchess. They will sell groceries, milk, coffee, and take-out food through this window. Mr. Haddad asked if they intended to sell beer from this drive-through window. Attorney Marcus described the State restrictions and said beer will only be sold inside the store; it will only be a part of the walk-in grocery store use. Attorney Marcus said this is truly a unique situation, the reason most convenience stores do not sell beer is because it limits the people they can hire. Many convenience stores are staffed by young people and in order to sell beer, the employees have to be of legal age.

Mr. Haddad asked how they would accept a stipulation that they could not sell beer from the drive-through window. Mr. Renz asked how they would prevent that from happening. Attorney Marcus said if the Commission is going to restrict it, the store policy would be to only sell in six-packs and not individual bottles. He said the beer would be kept at the opposite side of the store from the drive-through window, so it would be obvious if they attempted to sell beer through the drive-through. He added that if someone wants to beat the system though, they will find a way. Chairman Melillo asked if there would be separate hours of operation for the drive-through. Mr. Haddad asked if there would be an order board. Attorney Marcus said there would be an order board. He added that the one part of the Duchess that did well was the drive-through and that is why they want to keep it. Mr. Palma asked if the order board would list beer on it. Attorney Marcus said anyone asking to buy beer will be told to come inside the store.

Chairman Melillo asked if there was anyone to speak in opposition to this and there was no one.

Mr. Elpern said there was no conflict with the Zoning Regulations and reminded the Commission to remember the criteria for approval as listed in Sec. 3.F.2. of the Regulations.

Mr. DiCaprio made a motion to close this public hearing. Mr. Haddad seconded the motion and it was passed unanimously. Mr. DiCaprio made a motion to move this matter to number one under Old Business. Mr. Jowdy seconded the motion and it was passed unanimously.

7:45 PM — Petition of Victor Torres/Torres Grocery, 28 Wildman St. (#J13015) for Special Permit for Sale of Grocery Beer.

Mr. Renz read the legal notice. Victor Torres came forward but spoke no English. A young boy was with him who attempted to translate. They want to sell beer, just specific kinds. They are open 8AM to 9PM daily.

Mr. Elpern said there was a previous license to sell beer but that owner let it lapse. There were no incidents or problems with the sale of beer during that time period. He also reminded the Commission of the criteria for approval as listed in Sec. 3.F.2. of the Zoning Regulations.

Chairman Melillo asked if there was anyone to speak in opposition to this and there was no one.

Mr. Jowdy made a motion to close this public hearing. Mr. Palma seconded the motion and it was passed unanimously. Mr. Jowdy made a motion to move this matter to number two under Old Business. Mr. Palma seconded the motion and it was passed unanimously.

OLD BUSINESS

Petition of E & S LLC/HSBE, LLC d/b/a One Stop, 276 White St. (#K13031) for Special Permit for Sale of Grocery Beer.

Mr. Haddad made a motion to approve this with the following conditions: No single bottles of beer are to be sold and there is to be NO sales of beer from drive-through window. Mr. Palma seconded the motion. Mr. Haddad then gave the following reasons for his motion: The proximity of such premises will not have a detrimental effect on any church, school, or charitable institution. Nor will it have a detrimental effect on the immediate neighborhood concerned, due consideration having been given to the character of the surrounding neighborhood. Chairman Melillo took a roll call vote and the motion was passed unanimously.

Petition of Victor Torres/Torres Grocery, 28 Wildman St. (#J13015) for Special Permit for Sale of Grocery Beer.

Mr. DiCaprio made a motion to approve this for the following reasons: it is consistent with the requirements of 3.F.2. because the proximity of such premises will not have a detrimental effect on any church, school, or charitable institution. Nor will it have a detrimental effect on the immediate neighborhood concerned, due consideration having been given to the character of the surrounding neighborhood. Mr. Palma seconded the motion. Chairman Melillo took a roll call vote and the motion was passed unanimously.

8:00 PM — Petition of Scott Benincasa & David Benincasa to Amend Secs. 2.B., 5.B.2.b.(12), 5.B.5.d., & 8.C.4. of the Zoning Regulations. (Add “Indoor Shooting Range” as a Special Exception Use to CA-80 Zone.)

Mr. Renz read the legal notice. Chairman Melillo read the Planning Department Staff Report dated September 7, 2011. Mr. Haddad read the Planning Commission recommendation which was positive with the suggestion that they expand the parking requirement to include employees.

Attorney Dom Chieffalo spoke in favor of this. He explained that he had made a lengthy presentation in May of this year. After discussion with both the Commission and the Planning Director, they decided to withdraw and fine tune the language. Some of the changes made were to add language about how projectiles and noise would be handled. The use was changed from a permitted to a special exception in order to give the City more site control. Hours of operation were added: 10AM to 8 PM, although they would like to have it extended to 10PM. He said they would come back for that once they are up and running. He said the rifles are limited to .22 caliber or less; the handguns can be larger. The applicant's feel that noise reduction is of paramount importance; their intention is to have no noise escape the building. The place will be soundproofed: the booths and even the ceiling will be insulated to prevent any noise from escaping. He said this type of business will do almost all of their business at night. Although this is not a site specific application, the applicants do own a building that they would like to use for this. They want to keep it as non-intrusive as possible. Attorney Chieffalo then said he believes with the changes that were made; this language will allow the use without disturbing any of the abutting properties. Mr. Renz asked how they can be so sure that these measures will control the noise. Attorney Chieffalo said there is only one way to determine for sure and that can only be done after it is built. He added that the NRA Source Book is the bible, the standards in that are strict and the business will not be allowed to operate unless they comply. Mr. Elpern said he insisted on the time restriction because of the abutting property owners. He added that they are taking every precaution they can and he thinks for now they should stick to the time as written. Mr. Tierney asked why this was needed; the new Police Department has their own range. Mr. Elpern said Chief Baker was contacted and he had no objection to this. He felt it was a good idea. Mr. Elpern then said he agrees with the Planning Commission recommendation about adding a parking requirement for employees based on largest shift.

Chairman Melillo asked if there was anyone to speak in opposition to this and there was no one.

Mr. Haddad made a motion to continue the public hearing. Mr. DiCaprio seconded the motion and it was passed unanimously.

Mr. Renz announced that he would not be present at the next meeting. Chairman Melillo said that Mr. Jowdy, Mr. Tierney and Mr. Venuti need to listen to the tapes of the previous petition because there was a lot of important information discussed at that hearing. He said we also will get Mr. Kovacs to listen to the tape of tonight's meeting.

NEW BUSINESS

Petition of the City of Danbury by Dennis I. Elpern, Planning Director to Amend Secs. 2.B., 6.B.2., 6.B.5. and 7.C.3. of the Zoning Regulations. Public hearing scheduled for September 27, 2011.

Petition of LaFamilia Enterprises LLC, 49 North St. (#112004) for a Special Permit for Restaurant Liquor License. Public hearing scheduled for September 27, 2011.

Petition of the City of Danbury by Dennis I. Elpern, Planning Director to Amend Sec. 10.B.2. of the Zoning Regulations. Public hearing scheduled for October 11, 2011.

Petition of Madeline Ridge LLC, 2 Scuppo Rd. (#F14124) for Change of Zone from RA-40 to RMF-4. Public hearing scheduled for October 11, 2011.

Mr. DiCaprio made a motion to refer items #3 & #4 (the amendment and the zone change) to the Planning Commission for a recommendation. Mr. Palma seconded the motion and it was passed unanimously.

Chairman Melillo said there was nothing under Correspondence, Other Matters, or For Reference Only.

At 8:35 PM, Mr. Palma made a motion to adjourn. Mr. Haddad seconded the motion and it was passed unanimously.